

B104 (FORM 104) (08/07)

<b>ADVERSARY PROCEEDING COVER SHEET</b> (Instructions on Reverse)		<b>ADVERSARY PROCEEDING NUMBER</b> (Court Use Only)		
<b>PLAINTIFFS</b>  <i>R. Keith Johnson, Trustee</i>	<b>DEFENDANTS</b>  <i>Brian Mergentime</i>			
<b>ATTORNEYS</b> (Firm Name, Address, and Telephone No.) <i>R. Keith Johnson, P.A.</i> <i>1275 S. Hwy. 16, Stanley, NC 28164</i> <i>(704) 827-4200</i>	<b>ATTORNEYS</b> (If Known)			
<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee	<b>PARTY</b> (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee			
<b>CAUSE OF ACTION</b> (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)				
<b>NATURE OF SUIT</b> (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)				
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(1) – Recovery of Money/Property</b>  <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property  <input type="checkbox"/> 12-Recovery of money/property - §547 preference  <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer  <input type="checkbox"/> 14-Recovery of money/property - other   <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b>  <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property   <b>FRBP 7001(3) – Approval of Sale of Property</b>  <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)   <b>FRBP 7001(4) – Objection/Revocation of Discharge</b>  <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)   <b>FRBP 7001(5) – Revocation of Confirmation</b>  <input type="checkbox"/> 51-Revocation of confirmation   <b>FRBP 7001(6) – Dischargeability</b>  <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims  <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud  <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny   <div style="text-align: center;">(continued next column)</div> </td> <td style="width: 50%; vertical-align: top; border: none;"> <b>FRBP 7001(6) – Dischargeability (continued)</b>  <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support  <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury  <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan  <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)  <input type="checkbox"/> 65-Dischargeability - other   <b>FRBP 7001(7) – Injunctive Relief</b>  <input type="checkbox"/> 71-Injunctive relief – imposition of stay  <input type="checkbox"/> 72-Injunctive relief – other   <b>FRBP 7001(8) Subordination of Claim or Interest</b>  <input type="checkbox"/> 81-Subordination of claim or interest   <b>FRBP 7001(9) Declaratory Judgment</b>  <input type="checkbox"/> 91-Declaratory judgment   <b>FRBP 7001(10) Determination of Removed Action</b>  <input type="checkbox"/> 01-Determination of removed claim or cause   <b>Other</b>  <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i>  <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)           </td> </tr> </table>			<b>FRBP 7001(1) – Recovery of Money/Property</b> <input checked="" type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input type="checkbox"/> 14-Recovery of money/property - other  <b>FRBP 7001(2) – Validity, Priority or Extent of Lien</b> <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property  <b>FRBP 7001(3) – Approval of Sale of Property</b> <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h)  <b>FRBP 7001(4) – Objection/Revocation of Discharge</b> <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e)  <b>FRBP 7001(5) – Revocation of Confirmation</b> <input type="checkbox"/> 51-Revocation of confirmation  <b>FRBP 7001(6) – Dischargeability</b> <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny  <div style="text-align: center;">(continued next column)</div>	<b>FRBP 7001(6) – Dischargeability (continued)</b> <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other  <b>FRBP 7001(7) – Injunctive Relief</b> <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other  <b>FRBP 7001(8) Subordination of Claim or Interest</b> <input type="checkbox"/> 81-Subordination of claim or interest  <b>FRBP 7001(9) Declaratory Judgment</b> <input type="checkbox"/> 91-Declaratory judgment  <b>FRBP 7001(10) Determination of Removed Action</b> <input type="checkbox"/> 01-Determination of removed claim or cause  <b>Other</b> <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)
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<input type="checkbox"/> Check if this case involves a substantive issue of state law	<input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23			
<input type="checkbox"/> Check if a jury trial is demanded in complaint	Demand \$ <i>31,208.90</i>			
Other Relief Sought				

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BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR <i>Danielle Anne Mergentime</i>		BANKRUPTCY CASE NO. <i>17-30074</i>
DISTRICT IN WHICH CASE IS PENDING <i>WDNC</i>	DIVISION OFFICE <i>Charlotte</i>	NAME OF JUDGE <i>J. Craig Whitey</i>
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF)  <i>R. Keith Johnson</i>		
DATE <i>June 22, 2017</i>	PRINT NAME OF ATTORNEY (OR PLAINTIFF) <i>R. Keith Johnson</i>	

#### INSTRUCTIONS

The filing of a bankruptcy case creates an "estate" under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor's discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff's attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

**Plaintiffs and Defendants.** Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

**Attorneys.** Give the names and addresses of the attorneys, if known.

**Party.** Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

**Demand.** Enter the dollar amount being demanded in the complaint.

**Signature.** This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

<b>IN RE:</b>	)	
	)	
<b>DANIELLE ANNE MERGENTIME,</b>	)	<b>CASE NO. 17-30074</b>
	)	<b>CHAPTER 7</b>
<b>Debtor.</b>	)	
_____	)	
	)	
<b>R. KEITH JOHNSON, Trustee for the</b>	)	<b>ADV. PROC. NO. _____</b>
<b>Bankruptcy estate of Danielle Anne Mergentime</b>	)	
	)	
<b>Plaintiff,</b>	)	<b><u>COMPLAINT TO RECOVER PROPERTY</u></b>
	)	
<b>v.</b>	)	
	)	
<b>BRIAN MERGENTIME,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**THE PLAINTIFF**, complaining of the Defendant, alleges and says as follows:

1. On 18 January 2017 Danielle Anne Mergentime (hereinafter “Debtor”) filed a voluntary Chapter 7 bankruptcy case in this Court.
2. The Plaintiff, R. Keith Johnson, is the duly appointed, qualified, and acting Trustee for the bankruptcy estate of the Debtor.
3. The Defendant, Brian Mergentime (hereinafter “Defendant”), is the former husband of the Debtor.
4. Upon information and belief, the Defendant is a citizen and resident of Concord, Cabarrus County, North Carolina with an address of 9626 Walkers Glen, Concord, North Carolina 28027.
5. On 12 March 2017 the Debtor transferred to the Defendant the sum of \$31,208.90, said transfer being evidenced by check no. 123 dated 3/12/17 and drawn on the account of the Debtor, a copy of said check being attached hereto and incorporated by reference.
6. Check no. 123 was endorsed by the Defendant and, upon information and belief, collected and deposited into his account.

7. The transfer to the Defendant is a post-petition transfer to the Defendant, which should be set aside and preserved for the benefit of the bankruptcy estate.

8. This is a core proceeding and the Trustee consents to final and dispositive orders by the Bankruptcy Court.

**WHEREFORE**, the Trustee prays that the Court order the Defendant to pay to the Trustee for the benefit of the bankruptcy estate the sum of \$31,208.90, plus the costs of this action.

This the 22<sup>nd</sup> day of June, 2017.

/s/ R. Keith Johnson  
R. Keith Johnson, Trustee  
and Attorney for Trustee  
NC State Bar No. 8840  
1275 Highway 16 South  
Stanley, NC 28164  
(704)-827-4200

88-112/531		123
DANIELLE ANNE MERGENTIME		
1506 BURRELL AVE NW CONCORD, NC 28027		
3/12 2017		
PAY TO THE ORDER OF	Brian Mergentime	\$ 31,208.90
Thirty one thousand two hundred eight & 90/100		DOLLARS
BRANCH BANKING AND TRUST COMPANY 1-800-BANK BBT BBT.COM		
FOR	half lumps - atty	Danielle Mergentime
BB 27		MP

24. ORSE HERE

*[Handwritten signature]*

25. SIGN BELOW THIS LINE

- Security: ☐ No security features
- Chemical: ☐ Stains or spots may appear with chemical alteration
- Security: ☐ Absence of "Original Document" verbiage on back of check

\* FEDERAL RESERVE BOARD OF GOVERNORS REG. 133